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CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

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DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. CESAR B. PENA RODRIGUEZ, M.D.; and LEOVARES A. MENDEZ, M.D., Defendants.	3-19CV1055-S Civil Action No. **FILED UNDER SEAL**

COMPLAINT

Plaintiff, the United States of America, by its undersigned counsel, alleges as follows:

1. The current opioid epidemic is a national public health emergency affecting citizens across the Northern District of Texas. Certain physicians exacerbate this crisis by dispensing and distributing controlled substances—including opioids, non-opioid prescription painkillers, and other prescription medication—without any legitimate medical purpose and outside the usual course of professional practice. By abusing their prescription-writing privileges, these health care providers are not only contributing to the opioid crisis and unlawfully practicing medicine, but are violating the Controlled Substances Act ("CSA").

2. Cesar B. Pena Rodriguez, M.D., and Leovares A. Mendez, M.D., (collectively, "Defendants") have fueled and profited from the opioid epidemic.

Defendants have systemically issued thousands of prescriptions for powerful opioids and other prescription drugs without apparent regard for patient harm. Defendants' prescriptions were often for a combination of an opioid, a benzodiazepine, and a muscle relaxer—a dangerous drug cocktail known as a "trinity," which is widely-known in the medical profession for posing serious health risks when ingested and for being frequently abused by opioid addicts. In the course of their reckless prescription-writing practices, Defendants have issued numerous prescriptions for highly-addictive pain killers and other controlled substances—including "trinity" prescriptions—without medical justification in exchange for cash payments. Defendants' medically unjustified sale of such prescriptions plainly crossed the legal divide from lawfully practicing medicine to violating the CSA.

I. Jurisdiction and Venue

3. This action is brought by the United States under the CSA, 21 U.S.C. §§ 801-971.

4. This Court has subject matter jurisdiction over the CSA claims under 21 U.S.C. §§ 842(c)(1)(A) and 882(a), and 28 U.S.C. §§ 1345 and 1355.

5. Venue is proper in the Northern District of Texas as to the CSA claims under 21 U.S.C. § 843(f)(2) and 28 U.S.C. §§ 1391(b) and 1395(a) because Defendants are located, reside, and do business in this district, and a substantial part of the events or omissions giving rise to the claims occurred in this district.

II. Parties

6. Plaintiff is the United States of America.

7. Defendant Cesar B. Pena Rodriguez, M.D., is a Texas resident. At all times relevant to this complaint, Dr. Pena Rodriguez was, and is currently, licensed to practice in Texas as a doctor of medicine, with a primary practice area of internal medicine.

8. Defendant Leovares A. Mendez, M.D., is a Texas resident. At all times relevant to this complaint, Dr. Mendez was, and is currently, licensed to practice in Texas as a doctor of medicine, with a primary practice area of internal medicine.

III. The Controlled Substances Act

9. The CSA and its implementing regulations govern the manufacture, distribution, and dispensation of controlled substances in the United States. From the outset, Congress recognized the importance of preventing the diversion of drugs from legitimate to illegitimate uses. The CSA accordingly establishes a regulatory system under which it is unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.

A. Drug Schedules.

10. The CSA categorizes controlled substances in five schedules.

11. Schedule II contains drugs with a "high potential for abuse" that "may lead to severe psychological or physical dependence" but nonetheless have a "currently accepted medical use in treatment." 21 U.S.C. § 812(b)(2). The following drugs are currently listed in Schedule II:

a. Hydrocodone (with brand names including Vicodin®, Norco®, and Lortab®), a narcotic analgesic prescribed for the management of moderate to severe pain (21 C.F.R. § 1308.12(b)(1)(vi)); and

b. Oxycodone (with brand names including OxyContin®, Percocet®, Percodan®, and Roxicodone®), an opioid narcotic most commonly prescribed for the management of moderate to severe pain, chronic pain syndromes, and terminal cancers (21 C.F.R. § 1308.12(b)(1)(xiii)).

12. Schedule III contains drugs that have a lower potential for abuse than drugs on Schedule II, but that still may lead to "moderate or low physical dependence or high psychological dependence." 21 U.S.C. § 812(b)(3). Schedule III drugs also have "a currently accepted medical use in treatment." *Id.*

13. Schedule IV contains drugs that have a lower potential for abuse than drugs on Schedules I-III, but that still may lead to "limited physical dependence or psychological dependence." 21 U.S.C. § 812(b)(4). The following drugs are currently listed on Schedule IV:

a. Alprazolam (with brand names including Xanax®, Alprazolam Intensol®, Xanax® XR, and Niravam®), a short-acting benzodiazepine prescribed for the management of anxiety, depression, and panic disorders (21 C.F.R. § 1308.14(c)(2));

b. Carisoprodol (marketed under the brand names Soma® and Vanadom®), a muscle relaxer used to treat muscle pain or spasms (21 C.F.R. § 1308.14(c)(6)); and

c. Tramadol (with brand names including Ultram®, Conzip®, Rybix® ODT, and Ultram® ER), an opioid analgesic prescribed for management of moderate to severe pain (21 C.F.R. § 1308.14(b)(3)).

14. Schedule V contains drugs that have a low potential for abuse relative to drugs categorized in Schedule IV, but may still lead to "limited physical dependence or psychological dependence." 21 U.S.C. § 812(b)(5). The following drug is currently listed on Schedule V:

a. Codeine with promethazine (marketed under the brand name Phenergan® with codeine), a narcotic medication used to treat symptoms caused by the common cold, flu, allergies, or similar respiratory illnesses (21 C.F.R. § 1308.15(c)(1)).

B. CSA Physician Registration Requirements.

15. The CSA requires physicians who issue prescriptions to register with the United States Drug Enforcement Administration ("DEA"). *See* 21 U.S.C. § 822(a)(2). A physician who receives a DEA registration may only dispense or distribute controlled substances "to the extent authorized by their registration and in conformity with" the CSA. 21 U.S.C. § 822(b).

16. Similarly, the CSA only authorizes the prescription of controlled substances by a practitioner who is both: (1) authorized to prescribe controlled substances by the jurisdiction in which the practitioner is licensed, and (2) registered with DEA. 21 U.S.C. § 822(a)(2); 21 C.F.R. § 1306.03(a).

C. CSA Drug Distribution Requirements.

17. Schedule II controlled substances may not be dispensed without a prescription of a practitioner, such as a physician, unless dispensed directly by a

practitioner (other than a pharmacist) to an ultimate user. 21 U.S.C. § 829(a).

18. Schedule III or IV controlled substances may not be dispensed without a prescription of a practitioner, such as a physician, unless dispensed directly by a practitioner (other than a pharmacist) to an ultimate user. 21 U.S.C. § 829(b).

19. Schedule V controlled substances may not be distributed or dispensed other than for a medical purpose. 21 U.S.C. § 829(c).

D. Requirements for Valid Prescriptions under the CSA.

20. A prescription (written or oral) is legally valid under the CSA only if it is: (1) issued for "a legitimate medical purpose" and (2) issued by a practitioner "acting in the usual course of his professional practice." 21 C.F.R. § 1306.04(a).

21. If an order prescribing controlled substances is not issued "in the usual course of professional treatment," it is not deemed a valid prescription under the CSA. *See* 21 U.S.C. § 829; 21 C.F.R. § 1306.04(a). The person issuing such an order "shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances." 21 C.F.R. § 1306.04(a) (internal punctuation omitted).

22. "The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner." 21 C.F.R. § 1306.04(a).

IV. Facts

23. Since 2011, Defendants have jointly operated Cumbre Medical Center, LLC, d/b/a Cumbre Medical Center ("Cumbre"), located at 710 E. Centerville Road, Garland, Texas 75041.

24. Defendants are listed as officers and Dr. Mendez as the registered agent for

Cumbre Medical Center, LLC, in corporate filings with the Texas Secretary of State.

25. The DEA has investigated the prescription practices of Defendants, and obtained the prescription records for both doctors from the Prescription Monitoring Program ("PMP") database maintained by the Texas State Board of Pharmacy. These records provided the prescription history for Dr. Pena Rodriguez and Dr. Mendez from May 2014 until March 2019. The PMP data shows that both Defendants have issued numerous prescriptions for various controlled substances in significant quantities and often in specific combinations monitored by the DEA. The scope and circumstances of Defendants' prescription-writing practices raise multiple warning signs or "red flags" that the DEA considers indicative of prescription drug abuse and diversion.

26. The DEA investigation also involved completing 25 separate visits to the doctors by undercover agents posing as patients. In 24 of these visits, despite minimal physical or medical evaluations by either doctor, the undercover agent received at least one prescription for a controlled substance.

27. Dr. Pena Rodriguez and Dr. Mendez violated the CSA by issuing prescriptions that had no legitimate medical purpose and fell outside the usual course of professional medical practice.

A. Prescriptions for Specific Combinations of Controlled Substances.

28. As part of the DEA's opioid investigations, the agency evaluates whether a provider has prescribed a specific combination of controlled substances that are often taken together by users addicted to opioids because the combination of the three drugs mimics the effects of heroin. As mentioned above, this combination includes an opioid, a

short-acting benzodiazepine, and a muscle relaxer, which, when prescribed together, is generally referred to as a "trinity."

29. Nationally, this combination often appears in two forms: first, the "Trinity," which consists of hydrocodone, alprazolam, and carisoprodol; and second, the "Holy Trinity," which consists of oxycodone, alprazolam, and carisoprodol.

30. In Texas, a slightly-modified combination of these controlled substances, called the "Texas Trinity," is also found. One common version of the "Texas Trinity" consists of hydrocodone, alprazolam, and codeine with promethazine.

31. There is no medical basis for the simultaneous prescription of any version of the three "trinity" drugs. In fact, the significant danger resulting from concurrently ingesting an opioid and a benzodiazepine—as well as an opioid, a benzodiazepine, and a muscle relaxer—is well documented in peer-reviewed medical literature.

32. As part of this investigation, DEA evaluated the PMP data for Dr. Pena Rodriguez and Dr. Mendez. The PMP data indicates that both doctors prescribe a high volume of the controlled substances that make up various versions of a "trinity," and often prescribe these substances in combination.

1. Dr. Pena Rodriguez's Prescription History.

33. At all times relevant to this complaint, Dr. Pena Rodriguez was registered with DEA under registration number BP5688900. From January 2012 through the present, Dr. Pena Rodriguez's DEA-registered practice location was 710 E. Centerville Road, Garland, Texas 75041, which is Cumbre's location.

34. Based on data from the PMP database, Dr. Pena Rodriguez frequently

prescribed the "Trinity" (hydrocodone, alprazolam, and carisoprodol) to his patients. Between May 1, 2014 and March 18, 2019, Dr. Pena Rodriguez prescribed the "Trinity" 221 times to 19 individuals.

35. Additionally, between May 1, 2014 and March 18, 2019, Dr. Pena Rodriguez wrote prescriptions for two of the three "Trinity" drugs (hydrocodone, alprazolam, and carisoprodol) in combination 835 times to 127 individuals.

36. In fact, Dr. Pena Rodriguez prescribed the three drugs that make up any version of the "trinity" (any opioid, short-acting benzodiazepine, and muscle relaxer) 222 times to 19 individuals between May 1, 2014 and March 18, 2019.

2. Dr. Mendez's Prescription History.

37. At all times relevant to this complaint, Dr. Mendez was registered with DEA under registration number BM6560177. From January 2012 through the present, Dr. Mendez's DEA-registered practice location was 710 E. Centerville Road, Garland, Texas 75041, which is Cumbre's location.

38. Based on data from the PMP database, Dr. Mendez frequently prescribed both the "Trinity" (hydrocodone, alprazolam, and carisoprodol) and the "Holy Trinity" (oxycodone, alprazolam, and carisoprodol) to his patients. Between May 1, 2014 and March 18, 2019, Dr. Mendez prescribed the "Trinity" 193 times to 16 individuals. During this same time period, he prescribed the "Holy Trinity" five times to one individual.

39. Additionally, between May 1, 2014 and March 18, 2019, Dr. Mendez wrote prescriptions for two of the three "Trinity" drugs (hydrocodone, alprazolam, and

carisoprodol) in combination 1,928 times to 218 individuals.

40. In fact, Dr. Mendez prescribed the three drugs that make up any version of the "trinity" (any opioid, short-acting benzodiazepine, and muscle relaxer) 251 times to 19 individuals between May 1, 2014 and March 18, 2019.

B. Prescriptions of Controlled Substances to Undercover Agents.

41. The DEA investigated the prescription practices of Defendants by performing multiple undercover visits to each doctor. In total, the undercover agents visited the doctors on 25 separate occasions.[1] During each visit, Defendants performed perfunctory (at best) physical examinations of the agent, and spent only a few minutes with the agent—occasionally failing to see the agent at all. Despite the minimal evaluation of the "patients," at nearly every single visit, Defendants issued prescriptions to each undercover agent for at least one controlled substance in exchange for cash payments.

1. Undercover Officer Visits to Dr. Pena Rodriguez.

a. Undercover Officer #1.

42. Between May 2017 and March 2018, Undercover Officer #1 ("UC-1"), who worked for the Garland Police Department, headquartered in Garland, Texas, visited Cumbre on six occasions to meet with Dr. Pena Rodriguez in order to obtain prescriptions for painkillers and other controlled substances, including hydrocodone,

[1] As described in greater detail below, 16 of these visits were with Dr. Pena Rodriguez, and nine were with Dr. Mendez.

alprazolam, and tramadol.[2] UC-1 recorded each of UC-1's visits with Dr. Pena Rodriguez.

43. During these visits, Dr. Pena Rodriguez never performed any physical examination of UC-1, never asked about UC-1's medical history, never asked why UC-1 had requested pain medication, and never asked whether UC-1 had tried alternative treatments to pain medication. On two occasions, Dr. Pena Rodriguez did not even personally see UC-1 to evaluate him and simply gave his physician's assistant prefilled prescriptions to distribute to UC-1. Each of UC-1's visits lasted no more than a few minutes. Despite these minimal interactions, Dr. Pena Rodriguez prescribed controlled substances to UC-1 during nearly each visit in exchange for a payment of $250 cash at the end of the visit, as described in Table 1 below:

Agent	Prescriber	Date of Visit	Hydrocodone	Alprazolam	Tramadol
UC-1	Pena Rodriguez	5/11/17	60 tablets	30 tablets	N/A
UC-1	Pena Rodriguez	6/13/17	60 tablets	30 tablets	N/A
UC-1	Pena Rodriguez	7/17/17	60 tablets	30 tablets	60 tablets
UC-1	Pena Rodriguez	9/21/17	60 tablets	30 tablets	60 tablets
UC-1	Pena Rodriguez	1/9/18	60 tablets	30 tablets	60 tablets
UC-1	Pena Rodriguez	3/7/18	60 tablets	30 tablets	60 tablets

Table 1: Dr. Pena Rodriguez's Controlled Substance Prescriptions to UC-1 May 2017– March 2018

[2] UC-1 also visited Cumbre on February 20, 2019, but was not prescribed any controlled substances at this visit.

44. Dr. Pena Rodriguez unlawfully distributed and dispensed each of the controlled substances listed in Table 1 above to UC-1.

45. Each of the controlled substances listed in Table 1 is a prescription drug under the Federal Food, Drug, and Cosmetic Act ("FDCA").

46. Each of the prescriptions issued by Dr. Pena Rodriguez to UC-1 listed in Table 1 was issued without a legitimate medical purpose and outside the usual course of professional practice in violation of 21 U.S.C. § 829, 21 U.S.C. § 842(a)(1), and 21 C.F.R. § 1306.04(a).

b. Undercover Officer #2.

47. Between June 2017 and March 2018, Undercover Officer #2 ("UC-2"), a DEA Task Force Officer, visited Cumbre on five occasions to meet with Dr. Pena Rodriguez in order to obtain prescriptions for painkillers and other controlled substances, including hydrocodone, alprazolam, tramadol, and codeine with promethazine. UC-2 recorded each of UC-2's visits with Dr. Pena Rodriguez.

48. During these visits, Dr. Pena Rodriguez failed to perform any physical examination of UC-2, never asked about UC-2's statements about prior use of another individual's hydrocodone, and never questioned UC-2's requests for prescriptions of additional controlled substances. Each of these visits lasted no more than a few minutes. On two occasions, Dr. Pena Rodriguez did not even enter UC-2's examination room, but instead completed refill prescription forms in advance for his staff to provide to UC-2. Despite these minimal interactions, Dr. Pena Rodriguez prescribed controlled substances to UC-2 during each visit in exchange for a payment of $250 cash at the end of the visit,

as described in Table 2 below:

Agent	Prescriber	Date of Visit	Hydrocodone	Alprazolam	Tramadol	Codeine/ Promethazine
UC-2	Pena Rodriguez	6/13/17	60 tablets	30 tablets	N/A	N/A
UC-2	Pena Rodriguez	7/17/17	60 tablets	30 tablets	60 tablets	N/A
UC-2	Pena Rodriguez	9/21/17	60 tablets	30 tablets	60 tablets	240 ml
UC-2	Pena Rodriguez	1/9/18	60 tablets	30 tablets	60 tablets	240 ml
UC-2	Pena Rodriguez	3/7/18	60 tablets	30 tablets	60 tablets	240 ml

Table 2: Dr. Pena Rodriguez's Controlled Substance Prescriptions to UC-2 June 2017– March 2018

49. Dr. Pena Rodriguez unlawfully distributed and dispensed each of the controlled substances listed in Table 2 to UC-2.

50. Each of the controlled substances listed in Table 2 is a prescription drug under the FDCA.

51. Each of the prescriptions issued by Dr. Pena Rodriguez to UC-2 listed in Table 2 was issued without a legitimate medical purpose and outside the usual course of professional practice in violation of 21 U.S.C. § 829, 21 U.S.C. § 842(a)(1), and 21 C.F.R. § 1306.04(a).

c. Undercover Officer #3.

52. Between August 2017 and March 2018, Undercover Officer #3 ("UC-3"), a DEA Task Force Officer, visited Cumbre on four occasions to meet with Dr. Pena Rodriguez in order to obtain prescriptions for painkillers and other controlled substances, including hydrocodone, alprazolam, and tramadol. UC-3 recorded each of UC-3's visits with Dr. Pena Rodriguez.

53. During these visits, Dr. Pena Rodriguez did not perform any physical examination of UC-3 beyond checking UC-3's blood pressure, and did not ask questions about UC-3's medical history except in regard to the high blood pressure readings. Each of these visits lasted no more than a few minutes. On one occasion, Dr. Pena Rodriguez did not even see UC-3, but instead completed refill prescription forms in advance for his staff to provide to UC-3. Despite these minimal interactions, Dr. Pena Rodriguez prescribed controlled substances to UC-3 during each visit in exchange for a cash payment[3] at the end of the visit, as described in Table 3 below:

Agent	Prescriber	Date of Visit	Hydrocodone	Alprazolam	Tramadol
UC-3	Pena Rodriguez	8/10/17	60 tablets	30 tablets	N/A
UC-3	Pena Rodriguez	9/21/17	60 tablets	30 tablets	N/A
UC-3	Pena Rodriguez	1/9/18	60 tablets	30 tablets	N/A
UC-3	Pena Rodriguez	3/7/18	60 tablets	30 tablets	60 tablets

Table 3: Dr. Pena Rodriguez's Controlled Substance Prescriptions to UC-3 August 2017– March 2018

54. Dr. Pena Rodriguez unlawfully distributed and dispensed the controlled substances listed in Table 3 to UC-3.

55. Each of the controlled substances listed in Table 3 is a prescription drug under the FDCA.

56. Each of the prescriptions issued by Dr. Pena Rodriguez to UC-3 listed in

[3]At UC-3's first visit with Dr. Pena Rodriguez on August 10, 2017, UC-3 was only charged $200. At all subsequent visits, UC-3 was charged $250.

Table 3 was issued without a legitimate medical purpose and outside the usual course of professional practice in violation of 21 U.S.C. § 829, 21 U.S.C. § 842(a)(1), and 21 C.F.R. § 1306.04(a).

2. Undercover Officer Visits to Dr. Mendez.

a. Undercover Officer #4.

57. Between June 2017 and March 2018, Undercover Officer #4 ("UC-4"), a DEA Task Force Officer, visited Cumbre on five occasions to meet with Dr. Mendez in order to obtain prescriptions for painkillers and other controlled substances, including hydrocodone and alprazolam. UC-4 recorded each of UC-4's visits with Dr. Mendez.

58. During each visit, Dr. Mendez performed little to no physical or medical examination of UC-4. Dr. Mendez checked UC-4's breathing and heart rate through use of a stethoscope, but did not perform any other physical examination of UC-4. Dr. Mendez also ignored comments by UC-4 regarding separate indications of medical problems, such as circulatory issues, which would not be addressed by the controlled substances Dr. Mendez prescribed. Each of UC-4's visits lasted no more than a few minutes. Despite these minimal interactions, Dr. Mendez prescribed controlled substances to UC-4 during each visit in exchange for a payment of $250 cash at the end of the visit, as described in Table 4 below:

Agent	Prescriber	Date of Visit	Hydrocodone	Alprazolam
UC-4	Mendez	6/7/17	90 tablets	N/A
UC-4	Mendez	8/4/17	90 tablets	30 tablets
UC-4	Mendez	9/28/17	90 tablets	30 tablets
UC-4	Mendez	1/9/18	90 tablets	30 tablets
UC-4	Mendez	3/8/18	90 tablets	30 tablets

Table 4: Dr. Mendez's Controlled Substance Prescriptions to UC-4
June 2017– March 2018

59. Dr. Mendez unlawfully distributed and dispensed the controlled substances listed in Table 4 to UC-4.

60. Each of the controlled substances listed in Table 4 is a prescription drug under the FDCA.

61. Each of the prescriptions issued by Dr. Mendez to UC-4 listed in Table 4 was issued without a legitimate medical purpose and outside the usual course of professional practice in violation of 21 U.S.C. § 829, 21 U.S.C. § 842(a)(1), and 21 C.F.R. § 1306.04(a).

b. Undercover Officer #5.

62. Between August 2017 and February 2019, Undercover Officer #5 ("UC-5"), who worked for the Garland Police Department, headquartered in Garland, Texas, visited Cumbre on four occasions to meet with Dr. Mendez in order to obtain prescriptions for painkillers and other controlled substances, including hydrocodone and alprazolam. UC-5 recorded each of UC-5's visits with Dr. Mendez.

63. During each visit, Dr. Mendez performed little to no physical or medical examination of UC-5. On UC-5's initial visit to Dr. Mendez, the doctor insisted on taking x-rays of the officer's back for UC-5's medical file, even though the officer

repeatedly said UC-5 currently had no back pain, did not indicate UC-5 had a history of back pain, and repeatedly said UC-5 felt no pain when asked by Dr. Mendez if various spots on UC-5's back hurt during a physical examination. On subsequent visits, Dr. Mendez performed only minimal physical examinations of UC-5. Dr. Mendez never asked whether UC-5 had tried alternative treatments to pain medication. Each of UC-5's visits lasted no more than a few minutes. Despite these minimal interactions, Dr. Mendez prescribed controlled substances to UC-5 during each visit in exchange for a payment of $250 cash at the end of the visit, as described in Table 5 below:

Agent	Prescriber	Date of Visit	Hydrocodone	Alprazolam
UC-5	Mendez	9/28/17	90 tablets	N/A
UC-5	Mendez	1/9/18	90 tablets	N/A
UC-5	Mendez	3/8/18	90 tablets	30 tablets
UC-5	Mendez	2/20/19	90 tablets	30 tablets

Table 5: Dr. Mendez's Controlled Substance Prescriptions to UC-5
September 2017– February 2019

64. Dr. Mendez unlawfully distributed and dispensed the controlled substances listed in Table 5 to UC-5.

65. Each of the controlled substances listed in Table 5 is a prescription drug under the FDCA.

66. Each of the prescriptions issued by Dr. Mendez to UC-5 listed in Table 5 was issued without a legitimate medical purpose and outside the usual course of professional practice in violation of 21 U.S.C. § 829, 21 U.S.C. § 842(a)(1), and 21 C.F.R. § 1306.04(a).

Count I
Unlawful Prescribing of Controlled Substances:
21 U.S.C. §§ 829, 842(a)(1), 842(c)(1)(A)
Civil Penalties
(Both Defendants)

67. The United States repeats and realleges Paragraphs 1 through 66 as if fully set forth herein.

68. Defendants issued prescriptions without a legitimate medical purpose and outside the usual course of professional practice in violation of 21 U.S.C. §§ 829(a)-(c), 21 U.S.C. § 842(a)(1), and 21 C.F.R. § 1306.04.

69. As a result of the foregoing, Defendants are liable to the United States for a civil penalty in the amount of not more than $64,820 for each violation pursuant to 21 U.S.C. § 842(c)(1)(A) and 28 C.F.R. § 85.5.

Count II
Unlawful Prescribing of Controlled Substances:
21 U.S.C. §§ 843(f), 882(a)
Injunctive Relief
(Both Defendants)

70. The United States repeats and realleges Paragraphs 1 through 69 as if fully set forth herein.

71. As a result of the violations set forth above in Count I, Defendants are liable for injunctive relief pursuant to 21 U.S.C. §§ 843(f) and 882(a).

Request for Jury Trial

72. The United States hereby request a trial by jury to the extent authorized by law.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests that judgment be entered in its favor and against Defendants jointly and severally as follows:

A. On the First Count, impose a civil penalty on each Defendant of not more than $64,820 for each and every violation of 21 U.S.C. §§ 829 and 842(a)(1) committed by each Defendant; and

B. On the Second Count, order appropriate injunctive relief pursuant to 21 U.S.C. §§ 843(f) and 882(a).

Respectfully submitted,

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JS 44 (Rev. 06/17) - TXND (Rev. 06/17)

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NORTHERN DISTRICT OF TEXAS

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
United States of America

DEFENDANTS
Cesar B. Pena Rodriguez, M.D.; Leovares A. Mendez, M.D.

(b) County of Residence of First Listed Plaintiff ____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Dallas
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Sarah Delaney and Lindsey Beran, Assistant U.S. Attorneys; U.S. Attorney's Office, 1100 Commerce Street, Suite 300; Dallas, TX 75242; 214-659-8600

Attorneys *(If Known)*

3-19CV1055-S

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☒ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☒ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
21 U.S.C. §§ 801-971 (21 U.S.C. §§ 829, 842, 843, 882)

Brief description of cause:
Civil Penalties and Injunctive relief for unlawful prescribing of controlled substances

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $ 0.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ____ DOCKET NUMBER ____

DATE 5-2-19

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # ____ AMOUNT ____ APPLYING IFP ____ JUDGE ____ MAG. JUDGE ____